D.P.U. 95-40-C
Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.P.U. Nos. 893 through 908, filed with the Department on March 15, 1995 to become effective April 1, 1995 by Massachusetts Electric Company.

APPEARANCES: Thomas G. Robinson, Esq.
New England Power Service Company
25 Research Drive
Westborough, MA 01582
FOR: MASSACHUSETTS ELECTRIC COMPANY
Petitioner

L. Scott Harshbarger, Attorney General
By: George B. Dean
Joseph W. Rogers
William M. McAvoy
Frank P. Pozniak
Assistant Attorneys General
Regulated Industries Division
Public Protection Bureau
200 Portland Street
Boston, MA 02114
Intervenor

Andrew J. Newman, Esq.
Rubin and Rudman
50 Rowes Wharf
Boston, MA 02110
FOR: THE ENERGY CONSORTIUM
Intervenor

Nancy Brockway, Esq.
National Consumer Law Center
18 Tremont Street
Boston, MA 02108
FOR: LOW-INCOME INTERVENORS
Intervenor

F. Bruce Abel, Esq.
885 Greenville Avenue
Cincinnati, OH 45246
FOR: INDUSTRIAL INTERVENORS
Intervenor

Richard G. McLaughry
Distrigas of Massachusetts Corporation
200 State Street
Boston, MA 02109
FOR: DISTRIGAS OF MASSACHUSETTS CORPORATION
Intervenor

Edward L. Selgrade, Esq.
1050 Waltham Street
Lexington, MA 02173
FOR: MILFORD POWER LIMITED PARTNERSHIP
Intervenor

John Cope-Flanagan, Esq.
COM/Energy Services Company
One Main Street, P.O. Box 9150
Cambridge MA 02142-9150
FOR: COMMONWEALTH ELECTRIC COMPANY
CAMBRIDGE ELECTRIC LIGHT COMPANY
COMMONWEALTH GAS COMPANY
Limited Participant

Stephen Klionsky, Esq.
Western Massachusetts Electric Company
260 Franklin Street 21st Floor
Boston, MA 02110-3179
FOR: WESTERN MASSACHUSETTS ELECTRIC COMPANY
Limited Participant

Ann Brewster Weeks, Esq.
Conservation Law Foundation
62 Summer Street
Boston, MA 02110-1008
FOR: CONSERVATION LAW FOUNDATION
Intervenor

Paul Messerschmidt
Wheeled Electric Power Company
P.O. Box 243
Boston, MA 02133-0243
FOR: WHEELED ELECTRIC POWER COMPANY
Limited Participant

Jane Walton
22 North Pasture Lane
Nantucket, MA 02554
PRO SE
Limited Participant

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I. INTRODUCTION

A. Background

On March 15, 1995, pursuant to G.L. c. 164, § 94, Massachusetts Electric Company ("MECo" or "Company") filed with the Department of Public Utilities ("Department") a petition to increase its revenues by $62.1 million or 4.2 percent. On September 29, 1995, the Department issued an Order on the Company's petition allowing an increase of $31 million or 2.1 percent. Massachusetts Electric Company, D.P.U. 95-40 (1995). On October 5, 1995, the Company submitted a compliance filing,[1] and on October 16, 1995, the Department approved rates and tariffs submitted by the Company in compliance with the Department's Order. Massachusetts Electric Company, D.P.U. 95-40-B (1995).

With its compliance filing, the Company submitted a motion for reconsideration and a motion for recalculation.[2] The Energy Consortium, and the Attorney General of the Commonwealth ("Attorney General") also submitted motions for reconsideration.[3] The Attorney General submitted a response to the Company's motions, and the Company submitted a response to the motions of the Energy Consortium and the Attorney General. The Energy Consortium submitted a response to the Attorney General's motion.

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1 On October 13, 1995, the Company submitted a revised compliance filing.

2 With its motion for recalculation, the Company submitted a separate compliance filing based on the proposed recalculated cost of service. The Company's motion for recalculation and compliance filing based on the proposed recalculated cost of service were revised by the October 13, 1995 revised compliance filing.

3 The Energy Consortium and the Attorney General are intervenors in this proceeding.

II. RECALCULATION

A. Standard of Review

The Department grants motions for recalculation[4] in instances where an order contains a computational error or if the schedules in the order are inconsistent with the findings and conclusions contained in the body of the order. Western Massachusetts Electric Company, D.P.U. 89-255-A at 4 (1990); Essex County Gas Company, D.P.U. 87-59-A at 1-2 (1988).

B. The Company's Motion

The Company has requested recalculation of five items: (1) the purchased power expense; (2) a deferred PBOP recovery; (3) a capitalization adjustment; (4) an economic development rate adjustment; and (5) a payroll costs adjustment.

1. Purchased Power Expense

a. Position of the Company

In its filing, the Company eliminated the retail electric sales made to the Massachusetts Bay Transportation Authority ("MBTA") from the cost of service,[5] and included wheeling revenues associated with the MBTA's purchases from the Boston Edison Company. In its motion for recalculation, the Company states that the Department failed to include the purchase power costs of $2,483,000 associated with sales to the MBTA (Company Motion for Recalculation at 2-

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[4] Within twenty days of service of a final Department Order, a party may file a motion for recalculation based on an alleged inadvertent error in a calculation contained in a final Department Order. 220 C.M.R. § 1.11(9).

[5] In order to make this adjustment, the Company eliminated the test year sales to the MBTA and subtracted purchase power cost associated with sales to the MBTA from purchased power expense. In addition, the Company added wheeling revenues it would have received from the MBTA.

3). According to the Company, as a result the Department's Order approved a level of revenues that included MBTA sales, but did not include the level of purchased power expense associated with those sales (id.). The Company contends that an adjustment of $2,507,000 to the cost of service is necessary to make the schedules consistent with the Department's findings (id.).[6]

b. Response of the Attorney General

The Attorney General opposes the Company's motion for recalculation on this issue. The Attorney General states that the Company's request for recalculation of purchased power costs associated with sales to the MBTA does not involve a computational error, or schedules which are inconsistent with the findings and conclusion in the Department's Order,[7] and is in fact a request for reconsideration (Attorney General Response at 2). The Attorney General states that the Company should not be allowed to reargue issues considered and decided in the main case (id.).

c. Analysis and Findings

In its Order, the Department rejected the Company's proposed MBTA revenue normalizing adjustment and included test year sales associated with the MBTA in the determination of the Company's revenue requirement. D.P.U. 95-40, at 73-74. The Department's Order addressed the addition of the MBTA revenues, but did not address the exclusion of the purchase power expenses associated with the MBTA sales. The Department's Order is

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[6] The $2,507,000 amount incorporates the changes in working capital requirements, rate base, and income taxes that would also result from the inclusion of the purchased power expense of $2,483,000.

[7] The Attorney General notes that the Department's Order addresses only the addition of MBTA revenues and not purchased power expenses.

sufficiently ambiguous so as to warrant clarification.[8] The Department found that the loss of the MBTA sales was not extraordinary according to the standards for revenue adjustments. See Fitchburg Gas and Electric Light Company, D.P.U. 1214 (1983); Colonial Gas Company, D.P.U. 1125 (1982). However, the purchased power expense associated with the MBTA sales in the test year is not a recurring expense. Therefore, the Department did not allow this amount to be included in cost of service. Accordingly, the Company's motion for recalculation on this issue is denied.

2. Deferred PBOP Recovery

a. Position of the Company

The Company states that the Department's Order on the calculation of the deferred post-retirement benefits other than pension ("PBOP") expense is inconsistent with the amount included in the schedules. (Company Motion for Recalculation at 4). The Company states that a calculation of the return on deferred PBOP at the allowed rate of return, with other secondary effects, would reduce the annual amortization, i.e., reduce the revenue deficiency, by $76,000 (id.). The Company contends that this adjustment is necessary to correct the inconsistency in the Department's Order (id.).

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[8] Clarification of previously issued orders may be granted when an order is silent as to the disposition of a specific issue requiring determination, or when the order contains language that is sufficiently ambiguous to leave doubt as to its meaning. Berkshire Gas Company, D.P.U. 92-210-B at 3 (1993), citing Whitinsville Water Company, D.P.U. 89-67-A at 1-2 (1989). The Department may clarify some aspect of an order that may be unclear or confusing. Boston Edison Company, D.P.U. 91-233-D-1, at 2 (1994), citing Fitchburg Gas and Electric Light Company, D.P.U. 19296/19297, at 2 (1976). Clarification does not involve reexamining the record for the purpose of substantively modifying a decision. Id..

b. Response of the Attorney General

The Attorney General does not object to the Company's recalculation.

c. Analysis and Findings

In its Order, the Department excluded the return on the tax deductible contributions for PBOP costs made in 1992 and allowed a return on the remaining accumulated PBOP amounts above those recovered in rates. D.P.U. 95-40, at 42-43. The Department indicated that after October, 1995, the return would be calculated using the rate of return allowed in this proceeding. Id. at 43 n.19. The Department finds that this adjustment is necessary to correct the inconsistency in the Department's Order. Accordingly, the Company's motion for recalculation on this issue is granted. The revenue deficiency should be reduced by $76,000.

3. Capitalization Adjustment

a. Position of the Company

The Company states that the Department included a capitalization adjustment of $580,000 in the schedules accompanying its Order that is not discussed in the Order, or on the record in this proceeding (Company Motion for Recalculation at 4-5). The Company states that the adjustment should be deleted resulting in a decrease in its revenue deficiency by $77,000 (id. at 5). The Company contends that this adjustment is necessary to reconcile the cost of service schedules in the Order to the test year level of rate base (id.).

b. Response of the Attorney General

The Attorney General does not object to the Company's recalculation.

c. Analysis and Findings

The Department inadvertently included a capitalization adjustment of $580,000 in the schedules accompanying the Order that was not discussed in the text of the Order. Accordingly, the Company's motion for recalculation on this issue is granted. The revenue deficiency should be reduced by $77,000.

4. Economic Development Rate Adjustment

a. Position of the Company

The Department found that costs associated with the Economic Development Rate ("EDR") discounts should be borne by shareholders and required the Company to increase its revenues by $236,094. D.P.U. 95-40, at 142-143. The Company states that this adjustment fails to recognize that the normalized revenues in its cost of service did not reflect these discounts, and that the addition of this adjustment is an inadvertent error that results in double counting (Company Motion for Recalculation at 5-6).

b. Response of the Attorney General

The Attorney General did not object to the Company's recalculation.

c. Analysis and Findings

The Department based its finding on the evidence presented by the Company. The Company stated that the costs associated with the EDR discounts should be recovered in rates, and that the costs of the discounts were allocated based on a rate base allocator (Company Brief at 101-102, citing Exh. MECo-4, at 16).[9] The Company's contention on brief, supported by the

[9] In its motion for recalculation, the Company stated that the revenue normalizing adjustment included the EDR discounts.

testimony and exhibits indicated that the Company sought recovery of the EDR discounts in rates. The Company has the burden of presenting a clear and unambiguous filing. Fitchburg Gas and Electric Light Company v. Department of Public Utilities, 375 Mass. 571, at 582 (1978). The Department's Order was not the result of inadvertent error, but the Company's failure to present clearly the information on EDR discounts. Therefore, the Company's motion for recalculation on this issue is denied.

5. Payroll Costs Adjustment

a. Position of the Company

The Company states that the Department failed to eliminate the FICA taxes on a portion of the payroll disallowances (Company Motion for Recalculation at 6). The Company states that this adjustment reduces the FICA tax by $51,000 (id.). In addition, the Company states that a $1,000 increase in the revenue deficiency is produced by a lower allocation of payroll costs to rental water heaters when the disallowed test-year payroll is run through the cost of service model (id.). The Company contends that both of these adjustment are necessary to make the cost of service consistent with the findings and conclusions in the Order (id.).

b. Response of the Attorney General

The Attorney General does not object to the Company's recalculation.

c. Analysis and Findings

The Department eliminated certain test year and post-test year payroll adjustments and indicated that it made a corresponding adjustment to FICA taxes. D.P.U. 95-40, at 29-30. However, the Department did not eliminate the FICA taxes on a portion of the payroll

disallowances. Accordingly, the Company's motion for recalculation on this issue is granted, and the revenue deficiency is reduced by $50,000.

III. RECONSIDERATION

A. Standard of Review

The Department's policy with respect to reconsideration is well established.[10] Reconsideration of previously decided issues is granted only when extraordinary circumstances dictate that we take a fresh look at the record for the express purpose of substantively modifying a decision after review and deliberation. Fitchburg Gas and Electric Light Company, D.P.U. 18296/18297, Supplemental Order at 2 (1976). Reconsideration should not attempt to reargue issues considered and decided in the main case. Id.; Boston Edison Company, D.P.U. 92-1A-B at 10, 14 (1993); Western Massachusetts Electric Company, D.P.U. 92-8C-B at 6-8 (1993).

A motion for reconsideration should bring to light previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered.[11] Commonwealth Electric Company, D.P.U. 92-3C-1A at 5-8 (1995); Western Massachusetts Electric Company, D.P.U. 558-A at 2 (1981). Alternatively, a motion for reconsideration may be based on the fact that the Department's treatment of an issue was the result of mistake or inadvertence. Boston Edison Company, D.P.U. 92-1A-B at 8,14,19 (1993); Western Massachusetts Electric Company,

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[10] Within twenty days of service of a final Department Order, a party may file a motion for reconsideration. Parties to the proceeding shall be afforded a reasonable opportunity to respond to a motion for reconsideration. 220 C.M.R. § 1.11.

[11] The Department has denied reconsideration when the request rests on an issue or on updated information presented for the first time in the motion for reconsideration. See generally Western Massachusetts Electric Company, D.P.U. 85-270-C at 18-20 (1987); Western Massachusetts Electric Company, D.P.U. 86-280-A at 16-18 (1987).

D.P.U. 91-8C-B at 6-7 (1993); Boston Edison Company, D.P.U. 1350-A at 5 (1983).

B. The Company's Motion

The Company seeks reconsideration on two issues: (1) disallowed return on prefunding of the PBOP expense; and (2) disallowed nonunion payroll expense incurred during the test year.

1. Disallowed Return on Prefunding of the PBOP Expense

a. Position of the Company

The Department denied carrying charges on a 1992 payment of $18,055,000 to prefund PBOP expenses, and allowed a five-year amortization of this payment. D.P.U. 95-40, at 42-43. On reconsideration, the Company seeks a return on the prefunded amount for the period between when the investment was made and the effective date of the Department's Order in this proceeding (Company's Motion for Reconsideration at 3). The Company contends that the decision to disallow recovery on the payment to prefund the PBOP expenses is a change in policy, inconsistent with the Department's Order in Massachusetts Electric Company, D.P.U. 92-78 (1992), and not necessary to implement the policy of equitable sharing articulated in this proceeding (id. at 3-4).

In support of its contention, the Company argues that the Department's finding that it did not address the prefunded payment in D.P.U. 92-78 is incorrect (id. at 4). The Company contends that the Department established a policy to allow a return on prefunded amounts, and that the Company prefunded the PBOP expenses based on the Department's directive in that proceeding (id. at 4-6). The Company argues that the decision to allow a return on the prefunding of PBOP expenses may be changed prospectively, but should not be changed

retrospectively (id.). The Company also argues that the Department's Order in Boston Gas Company, D.P.U. 93-60 (1993) does not provide a basis for disallowance in this proceeding (id. at 7). MECo states that, contrary to D.P.U. 93-60, in D.P.U. 92-78, the Company had demonstrated the benefits to customers from prefunding the PBOP expenses (id.).

The Company also contends that the "retroactive disallowance" is not necessary to implement the balance between shareholders and customers (id. at 7-8). The Company argues that prospective application implements the economic sharing found to be fair in this proceeding, but that retroactive disallowance produces an unfair result (id.).

b. Response of the Attorney General

The Attorney General opposes the Company's motion for reconsideration on this issue arguing that the Department denied the recovery of carrying charges on an investment, and that the prohibition against retroactive ratemaking is inapplicable and does not prevent the disallowance of these costs (Attorney General Response at 3-4). The Attorney General contends that the Department indicated that the Company could raise the issue of recovery of prefunded payments in its next rate case, and did not find customer benefits or authorize recovery of the prepayment (id. at 4, citing D.P.U. 92-78, at 79-86). The Attorney General also contends that denial of carrying charges is consistent with other Department decisions and produces an equitable sharing between shareholders and customers (id., citing D.P.U. 93-60, at 64).

c. Analysis and Findings

In its Order, the Department recognized that, in D.P.U. 92-78, it had found that the Company may defer the difference between the amount recovered in rates and the tax deductible amount it actually funds, plus carrying costs, for consideration in its next rate case. D.P.U. 95-40, at 42, citing D.P.U. 92-78, at 84. The Department also stated that while it addressed the phase-in of the annual tax deductible amounts under FAS 106 in D.P.U. 92-78, it did not address the prefunded payment made in December of 1992. Id..

In D.P.U. 92-78, the Department approved a four-year phase in of the tax deductible amount under FAS 106. The Department also allowed the Company to defer, with carrying charges, the difference between the amount recovered in rates and the tax deductible amount it actually paid, based on a full year of tax deductible contributions, for future consideration.[12] The Department did not include a post-Order prefunding payment in the determination of the amount to be phased-in over the four year period. If the Company found some ambiguity in the disposition of this issue in D.P.U. 92-78, the appropriate action would have been to seek clarification of that Order. Further, the Department addressed this issue in D.P.U. 93-60, and, as a result, the Company had an opportunity to mitigate its prefunding payment carrying costs. The Department's Order is not the result of mistake or inadvertence, and the Company's motion for reconsideration on this issue is denied.

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[12] In D.P.U. 92-78, the full year of tax deductible contributions to be phased-in over the four year period was determined as presented in Exh. MECo-136. Id. at 84.

2. Disallowed Nonunion Payroll Expense Incurred in Test Year

a. Position of the Company

The Company seeks reconsideration of the disallowance of $1,985,000 of test-year nonunion payroll expense (Company's Motion for Reconsideration at 9). MECo contends that the Department's finding that the Company did not substantiate the increases that went into effect since its prior rate case is misplaced (id.). In support of its contention, the Company states that, in D.P.U. 92-78, the Department found the level of nonunion payroll expense reasonable (id. at 10, citing D.P.U. 92-78, at 25). The Company states that in D.P.U. 95-40, it provided comparative figures for Massachusetts, the Northeast and nationally, and that its increases are lower than the comparative increases (id., citing Exh. MECo-3, Sch. MFF-4). The Company contends that no party presented evidence that its test-year nonunion payroll expense was unreasonable (id. at 11).

The Company also argues that the level of nonunion payroll expense in this proceeding is below the level found to be reasonable in D.P.U. 92-78 (id. at 10). In the alternative, the Company states that the Department should restore the level of nonunion payroll expense to the level that was approved in D.P.U. 92-78 (id.).

b. Response of the Attorney General

The Attorney General states that the record does not contain evidence to support the Company's test-year payroll increase, and that the Company had the burden to develop a record that is sufficiently complete (Attorney General Response at 5). The Attorney General contends that the Company failed to meet its burden, and the Company's motion for reconsideration is an

attempt to reargue issues considered and decided in the main case (id. at 5-6). The Attorney General also contends that the Department's finding in this proceeding addressed individual compensation, and that a comparison of total test-year payroll to a 1991 total level is not appropriate (id.).

c. Analysis and Findings

The Department found that the Company did not substantiate the increases that went into effect since the level approved in the Company's last rate case, and disallowed $1,985,000 of test-year nonunion payroll expense. D.P.U. 95-40, at 29-30. In demonstrating that its test-year payroll expenses are reasonable, the Company bears the burden of proof. Massachusetts Electric Company v. Department of Public Utilities, 376 Mass. 294, at 304 (1978). Although MECo provided some comparative figures, the Company did not provide the comparative studies required by the Department. D.P.U. 95-40, at 27-28. Accordingly, the Department found that the Company did not demonstrate that its test-year nonunion payroll expense was reasonable.

The Company has not brought to light any previously unknown or undisclosed facts that would have a significant impact on the decision already made, and the motion for reconsideration is an attempt to reargue an issue considered and decided in the main case. Accordingly, the motion for reconsideration on this issue is denied. The Company's argument that the level of nonunion payroll in this proceeding should be restored the level found to be reasonable in D.P.U. 92-78 is also an attempt to reargue the payroll level that was considered and decided in the main case.

C. Energy Consortium's Motion

The Energy Consortium seeks reconsideration of two issues: (1) design of the G-3 rate; and (2) consolidation of the G-3 and G-4 rate classes.

1. Design of Rate G-3

a. Position of the Energy Consortium

The Energy Consortium states that the Company proposed a rate decrease for the G-3 class, and that it proposed to apply all of the reduction to the energy charge (Energy Consortium Motion at 3). The Energy Consortium contends that it is not appropriate to apply an increase in that manner (id.). The Energy Consortium supports the Company's proposal to increase the demand and energy charges proportionately (id.).[13] The Energy Consortium contends that the information contained in the Company's compliance filing demonstrates that the allocation of all of the rate increase to the energy charge violates the Department's rate continuity guidelines, and that this information was not known by the Department at the time it issued its Order (id.). The Energy Consortium contends that the Department should reconsider its Order based on this information (id.)

b. Response of the Company

The Company supports the Energy Consortium's motion for reconsideration on this issue (Company Response at 1).

c. Analysis and Findings

The Department approved the design of the G-3 rate as proposed by the Company.

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[13] In its compliance filing, the Company stated that the rate design approved by the Department violated its continuity guidelines, and proposed to apply the increase to the demand and energy charges proportionately (See Compliance Filing, exh. PTZ-7; see also, Revised Compliance Filing, exh. PTZ-7).

Because the results of the rate design were provided with the Company's compliance filing, this information could not have been available at the time the Department issued its Order. The Department finds that allocation of the increase to the demand and energy charges proportionately is appropriate. Accordingly, the Department grants the Energy Consortium's motion for reconsideration on this issue. The Department directs the Company to submit a compliance filing that applies the increase to the demand and energy charges proportionately.

2. Consolidation of the G-3 and G-4 Rate Classes

a. Position of the Energy Consortium

The Energy Consortium states that the distribution allocation for cost of service proposed by the Company produced a rate reduction for the combined G-3 rate class, and that the distribution allocation approved by the Department produces an increase for that class (Energy Consortium Motion for Reconsideration at 2). The Energy Consortium contends that the impact of the increase no longer warrants a combining of the G-3 and G-4 rate classes (id.). The Energy Consortium contends that the information contained in responses to information requests on the Company's compliance filing demonstrate the significance of the change in the allocation of costs, and that this information was not known by the Department at the time it issued its Order (id.).[14] The Energy Consortium argues that this information requires reconsideration of the Department's Order (id.).

b. Response of the Company

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[14] Although the Department's procedural rules do not provide for inter-party discovery on the compliance filing of a final order, the Company did not object to the information sought by the Energy Consortium, and provided the responses voluntarily.

The Company opposes the Energy Consortium's motion for reconsideration on this issue (Company Response at 2). The Company states that if the increase is allocated proportionately to all elements of the G-3 rate class, the rate design will appropriately collect cost differences among customers with different load factors in the G-3 and G-4 rate classes (id.).

c. Analysis and Findings

The Department found that the embedded and marginal costs of the G-4 rate class were similar to the G-3 rate class. D.P.U. 95-40, at 160. The information contained in responses to information requests on the Company's compliance filing indicates that the embedded costs are still similar, and the Energy Consortium's motion is an attempt to reargue an issue decided in the main case.[15] Accordingly, the Department denies the Energy Consortium's motion for reconsideration on the consolidation of the G-3 and G-4 rate classes.

Even if the Department were to grant the Energy Consortium's motion for reconsideration on this issue, based on the information submitted with its motion, the Department would grant the Company's request for consolidation of the G-3 and G-4 rate classes. Moreover, the Company contends that if the increase is allocated proportionately to all elements of the combined G-3 rate class, the rate design would appropriately collect cost differences among customers with different load factors in the former G-3 and G-4 classes. The Department has granted reconsideration on

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[15] In the Company's initial filing, the embedded cost to serve the G-3 rate class was $0.07164 per KWH, and the embedded cost to serve the G-4 rate class was $0.07778 per KWH (RR-DPU-34, at 1). The difference between the embedded costs of the classes equals $0.00614. In the response to information request provided by the Energy Consortium with its motion, the embedded cost to serve the G-3 rate class is $0.08160 per KWH, and the embedded cost to serve the G-4 rate class is $0.07382 per KWH. The difference between these embedded costs equals $0.00778.

this issue. See Section III.C.1.c, above.

D. The Attorney General's Motion

The Attorney General seeks reconsideration of two issues: (1) the calculation of rate base; and (2) the allocation of the increase to the R-1 and R-2 rate classes.

1. Calculation of Appropriate Rate Base

a. Position of the Attorney General

The Attorney General states that, as a result of the Department's Order, the total adjusted rate base exceeds the amount of funds invested in the Company's capital structure (Attorney General's Motion at 3). The Attorney General contends that such a phenomenon is anomalous under generally accepted accounting principles (id.). The Attorney General states that, on brief, two remedies were proposed to rectify the overstated rate base (id. at 5-6).[16] While the Department did not accept the Attorney General's proposals, the Attorney General contends that the Department did not resolve the issue of an alleged overstated rate base (id. at 6). The Attorney General proposes that the Department reduce the rate base through a separate "capitalization/rate base equalization" adjustment (id. at 7).

b. Response of the Company

The Company opposes the Attorney General's motion for reconsideration, and contends that the Attorney General abandoned his theories advanced on brief (Company Response at 2).

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[16] On brief, the Attorney General argued that the requested overall return on rate base is greater that the actual dollar costs of capital, and stated that, while the reasons could be many, the major error in the Company's rate base determination is its cash working capital allowance (Attorney General Brief at 13-14). In addition, the Attorney General argued that short-term debt should be included in the Company's capital structure (id. at 58-59).

The Company also contends that, on the merits, the Attorney General's capitalization/rate base equalization adjustment is simplistic, unstable, and incorrect (id.). The Company states that its rate base is determined by a review of actual investments made by the Company, and that it earns a return on investments that are prudent, used and useful (id. at 3). The Company contends that the capitalization reflected in its balance sheet is a snapshot of assets and liabilities that are outstanding at a given point in time, and the absolute level of financing is not as important as the ratio of debt, preferred and common equity components (id.). The Company argues that the calculation of overstated rate base advanced by the Attorney General is selective and arbitrary (id. at 3-4).

c. Analysis and Findings

On brief, the Attorney General argued that the dollar amount of requested return is greater than the actual dollar cost of capital that the Company must pay to its investors, and the major error in the rate base determination is the cash working capital allowance (Attorney General Brief at 10-14; Attorney General Reply Brief at 4).[17] The Attorney General argues that the Department must address the fact that the allowed rate base exceeds the amount of funds invested (Attorney General Motion at 6).

The Department reviewed the Company's proposed additions to rate base pursuant to its well established precedent. D.P.U. 95-40, at 6, citing Western Massachusetts Electric Company, D.P.U. 85-270 (1986). The Attorney General did not suggest that the Department should depart

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[17] The Department did not accept the Attorney General's proposed adjustment to the Company's cash working capital allowance. In addition, the Department did not accept the Attorney General's proposal to include short-term debt in capital structure.

from this precedent. In reviewing the additions to rate base pursuant to its precedent, the appropriate level of rate base was decided in the main case, and the motion for reconsideration is an attempt to reargue an issue that has been considered and decided. To the extent that the Attorney General contends that the Department did not address an argument raised on brief, the Department notes that it expressly rejected the Attorney General's proposed rate base adjustments. D.P.U. 95-40, at 12, 85. Moreover, the Attorney General's proposal that the Department should reduce the rate base through a capitalization/rate base equalization adjustment has been presented for the first time on reconsideration. Accordingly, the Attorney General's motion for reconsideration on this issue is denied.

2. Allocation to the R-1 and R-2 Rate Classes

a. Position of the Attorney General

The Attorney General asserts that capping the revenue requirement percentage increase and allocation of underrecoveries resulting from the cap to the other rate classes is unfair to the R-1 and R-2 rate classes (Attorney General Motion at 8). In support of his assertion, the Attorney General states that, as a result of an allocation methodology that was contrary to the language and findings in Massachusetts Electric Company, D.P.U. 92-78, (1992), the residential class has paid costs that should have been borne by other customer classes (id. at 10). The Attorney General requests that the Department reconsider its method of allocating interclass revenues and require the residential class to pay no more than the cost to serve the class (id.).[18]

[18] The Attorney General also requests that the Department reopen the record in this proceeding, or conduct a separate investigation into the circumstances that led to the allocation methodology used by the Company in D.P.U. 92-78 (Attorney General Motion at 10-11).

Alternatively, the Attorney General requests that, should the Department maintain the cap established in D.P.U. 95-40, the underrecovered revenues that have been allocated to the R-1 and R-2 rate classes should be allocated, up to the cap, to the rate classes that benefited from the misallocation as a result of D.P.U. 92-78, with remaining underrecoveries being allocated to the R-1 and R-2 rate classes (id. at 11).

b. Response of the Company

The Company opposes the Attorney General's motion for reconsideration on this issue (Company Response at 4). The Company states that the Attorney General's argument that the Company employed an allocation methodology that was contrary to D.P.U. 92-78 is incorrect and misplaced (id. at 5). The Company contends that the Department made a reasonable policy choice to change the allocation methodology in this proceeding from the approach that was reasonably required in D.P.U. 92-78, and that the allocation methodology approved by the Department in this proceeding is appropriate (id. at 5-6). The Company also maintains that the Department's decision to moderate the percentage increase to any rate class and allocate underrecoveries to other rate classes was within its discretion, consistent with the established ratemaking goal of continuity, and was applied reasonably (id. at 6). The Company contends that the Attorney General is inappropriately making a motion for reconsideration of D.P.U. 92-78 in this proceeding (id. at 7).

c. Response of the Energy Consortium

The Energy Consortium opposes the Attorney General's motion (Energy Consortium Response at 1). The Energy Consortium supports the Department's rate increase cap, but

contends that the Department did not make a reasonable policy choice to change its allocation methodology in this proceeding from the approach that was reasonably required in D.P.U. 92-78 (id.).

d. Analysis and Findings

The Department directed the Company to cap the revenue requirement percentage increase for any rate class at twice the overall percentage increase on base revenues, and allocate underrecoveries resulting from the cap to the other rate classes based on a rate base allocator. D.P.U. 95-40, at 143-144. The Attorney General's motion for reconsideration is an attempt to reargue an issue considered and decided in the main case. Accordingly, the Attorney General's motion for reconsideration on this issue is denied.[19]

[19] The Attorney General's request to reopen the record in this proceeding is untimely and is denied. The Department approved the allocation to the R-1 and R-2 rate classes in this proceeding with knowledge of the allocation methodology used by the Company in D.P.U. 92-78. The Attorney General's request to conduct a separate investigation into the circumstances that led to the allocation methodology used by the Company is an attempt to reargue an issue considered and decided in the main case. Accordingly, the Department denies the Attorney General's request.

IV. ORDER

Accordingly, after due consideration, it is

ORDERED: That the motion for recalculation of Massachusetts Electric Company is granted in part and denied in part; and it is

FURTHER ORDERED: That the motion for reconsideration of Massachusetts Electric Company is denied; and it is

FURTHER ORDERED: That the motion for reconsideration of the Energy Consortium is granted in part and denied in part; and it is

FURTHER ORDERED: That the motion for reconsideration of the Attorney General is denied; and it is

FURTHER ORDERED: That Massachusetts Electric Company shall comply with all orders and directives contained herein; and it is

FURTHER ORDERED: That Massachusetts Electric Company may file new rate and tariffs consistent with the orders and directives contained herein.

By Order of the Department,

_____
Mary Clark Webster, Commissioner

_____
Janet Gail Besser, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal may be filed with the Secretary of the Commission within twenty days after the date of service for the decision order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of Said Court.
(Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).